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Human rights situations that require the Council's attention

Albania,* Andorra,* Australia, Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Canada,* Chile, Croatia, Cyprus,* Czechia,* Denmark,* Estonia,* Finland,* France,* Georgia, Germany, Greece,* Hungary, Iceland,* Ireland,* Israel,* Italy,* Japan, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands,* Norway,* Poland,* Portugal,* Republic of Korea, Republic of Moldova,* Romania,* Slovakia, Slovenia, Spain, Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* Turkey,* Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

37/... Situation of human rights in the Democratic People's Republic of Korea

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments,

Recalling all previous resolutions adopted by the Commission on Human Rights, the Human Rights Council and the General Assembly on the situation of human rights in the Democratic People's Republic of Korea, including Council resolution 34/24 of 24 March 2017 and Assembly resolution 72/188 of 19 December 2017, and urging the implementation of those resolutions,

Bearing in mind paragraph 3 of General Assembly resolution 60/251 of 15 March 2006,

Recalling its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and annexes thereto,

Stressing the importance of following up on the recommendations contained in the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea,[1] which was welcomed by both the Human Rights Council and the General Assembly, and transmitted to the relevant bodies of the United Nations, including the Security Council,

* State not a member of the Human Rights Council.
[1] A/HRC/25/63.

Deeply concerned at the systematic, widespread and gross human rights violations in the Democratic People's Republic of Korea that, in many instances, constitute crimes against humanity, and at the impunity of perpetrators, as described in the report of the commission of inquiry,

Recalling the responsibility of the Democratic People's Republic of Korea to protect its population from crimes against humanity, and noting General Assembly resolution 72/188, in which the Assembly recalled that the commission of inquiry had urged the leadership of the Democratic People's Republic of Korea to prevent and suppress crimes against humanity and to ensure that perpetrators are prosecuted and brought to justice,

Concerned that the precarious humanitarian situation in the country is exacerbated by the failure of the Government of the Democratic People's Republic of Korea to provide humanitarian agencies with free and unimpeded access to all populations in need and the ability to monitor appropriately the entire distribution process, and by its national policies that, among others, prioritize military spending, in particular nuclear and ballistic missile development, over citizens' access to food,

Acknowledging Security Council resolution 2397 (2017) of 22 December 2017, in which the Council noted that 41 per cent of the population of the Democratic People's Republic of Korea was undernourished, and General Assembly resolution 72/188, in which the Assembly noted with concern the findings of the United Nations that well over half of the people in the Democratic People's Republic of Korea suffered from major insecurities in food and medical care, including a very large number of pregnant and lactating women and children under 5 who were at risk of malnutrition, and nearly a quarter of its total population was suffering from chronic malnutrition, condemned the Democratic People's Republic of Korea for diverting its resources into pursuing nuclear weapons and ballistic missiles over the welfare of its people, and emphasized the necessity for the Democratic People's Republic of Korea to respect and ensure the welfare and inherent dignity of the people in the country, as referred to by the Security Council in its resolutions 2321 (2016) of 30 November 2016, 2371 (2017) of 5 August 2017, 2375 (2017) of 11 September 2017 and 2397 (2017),

Reaffirming that it is the responsibility of the Government of the Democratic People's Republic of Korea to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population, including by ensuring equal access to adequate food, as well as, among others, freedom of religion or belief, freedom of expression and freedom of association and assembly,

Recognizing that particular risk factors affect women, children, persons with disabilities and the elderly, and the need to ensure the full enjoyment of all their human rights and fundamental freedoms by them against neglect, abuse, exploitation and violence, taking note in this regard of the concluding observations of the Committee on the Elimination of Discrimination against Women on the combined second to fourth periodic reports of the Democratic People's Republic of Korea[2] and the concluding observations of the Committee on the Rights of the Child on the fifth periodic report of the Democratic People's Republic of Korea,[3]

Noting with appreciation the visit of the Special Rapporteur on the rights of persons with disabilities to the Democratic People's Republic of Korea, encouraging the Democratic People's Republic of Korea to implement all of the recommendations contained in the report of the Special Rapporteur on her visit to the Democratic People's Republic of Korea, submitted to the Human Rights Council at its thirty-seventh session,[4] and noting the participation of the Democratic People's Republic of Korea in the Paralympic Winter Games, held in PyeongChang, Republic of Korea,

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[2] CEDAW/C/PRK/CO/2-4.

[3] CRC/C/PRK/CO/5.

[4] A/HRC/37/56/Add.1.

Acknowledging the participation of the Democratic People's Republic of Korea in the second universal periodic review process, noting the acceptance by the Government of the Democratic People's Republic of Korea of 113 out of the 268 recommendations contained in the outcome of the review and its stated commitment to implement them and to look into the possibility of implementing a further 58 recommendations, and emphasizing the importance of the implementation of the recommendations in order to address the grave human rights violations in the country,

Recognizing the important work of the treaty bodies in monitoring the implementation of international human rights obligations, and emphasizing the need for the Democratic People's Republic of Korea to comply with its human rights obligations and to ensure regular and timely reporting to the treaty bodies,

Noting the urgency and importance of the issue of international abductions and of the immediate return of all abductees, expressing grave concern at the lack of positive action by the Democratic People's Republic of Korea since the investigations on all the Japanese nationals commenced on the basis of the government-level consultations held between the Democratic People's Republic of Korea and Japan in May 2014, and expecting the resolution of all issues related to the Japanese nationals, in particular the return of all abductees, to be achieved at the earliest possible date,

Noting also the importance of dialogue, including inter-Korean dialogue, for the improvement of the human rights and humanitarian situation in the Democratic People's Republic of Korea,

Welcoming the momentum of inter-Korean dialogue created on the occasion of the participation of the Democratic People's Republic of Korea in the Olympic Winter Games, held in PyeongChang, and the recent progress in inter-Korean relations,

Noting the urgency and importance of the issue of separated families and the requests of the Republic of Korea for confirmation of the fate of family members, and allowing the exchange of letters, visits to their hometowns and the holding of further reunions on a larger scale and a regular basis,

Reaffirming the importance of States engaging fully and constructively with the Council, including with the universal periodic review process and other mechanisms of the Council, for the improvement of their situation of human rights,

1. *Condemns in the strongest terms* the long-standing and ongoing systematic, widespread and gross human rights violations and other human rights abuses committed in and by the Democratic People's Republic of Korea, and expresses its grave concern at the detailed findings made by the commission of inquiry in its report, including:

(a) The denial of the right to freedom of thought, conscience and religion, and of the rights to freedom of opinion, expression and association, both online and offline, which is enforced through an absolute monopoly on information and total control over organized social life, and arbitrary and unlawful State surveillance that permeates the private lives of all citizens;

(b) Discrimination based on the *songbun* system, which classifies people on the basis of State-assigned social class and birth, and also includes consideration of political opinions and religion, discrimination against women, including unequal access to employment, discriminatory laws and regulations, and violence against women;

(c) Violations of all aspects of the right to freedom of movement, including forced assignment to State-designated places of residence and employment, often based on the *songbun* system, and denial of the right to leave one's own country;

(d) Systematic, widespread and grave violations of the right to food and related aspects of the right to life, exacerbated by widespread hunger and malnutrition;

(e) Violations of the right to life and acts of extermination, murder, enslavement, torture, imprisonment, rape and other grave forms of sexual violence and persecution on political, religious and gender grounds in political prison camps and

ordinary prisons, and the widespread practice of collective punishment with harsh sentences imposed on innocent individuals;

(f) Systematic abduction, denial of repatriation and subsequent enforced disappearance of persons, including those from other countries, on a large scale and as a matter of State policy;

2. *Urges* the Government of the Democratic People's Republic of Korea to acknowledge its crimes and human rights violations in and outside of the country, and to take immediate steps to end all such crimes and violations through, inter alia, the implementation of relevant recommendations in the report of the commission of inquiry and General Assembly resolution 72/188, including, but not limited to, the following steps:

(a) To ensure the right to freedom of thought, conscience and religion, and the rights to freedom of opinion, expression and association, both online and offline, including by permitting the establishment of independent newspapers and other media;

(b) To end discrimination against citizens, including State-sponsored discrimination based on the *songbun* system, and to take immediate steps to ensure gender equality and to protect women from gender-based violence;

(c) To ensure the right to freedom of movement, including the freedom to choose one's place of residence and employment;

(d) To promote equal access to food, including through full transparency regarding the provision of humanitarian assistance so that such assistance is genuinely provided to vulnerable persons, including individuals in detention;

(e) To halt immediately all human right violations relating to prison camps, including the practice of forced labour and the use of torture and gender-based violence, to dismantle all political prison camps and to release all political prisoners, to immediately cease the practice of the arbitrary and summary execution of persons in custody, and to ensure that justice sector reforms provide protections for a fair trial and due process;

(f) To resolve the issue of all persons who have been abducted or otherwise forcibly disappeared, and their descendants, in a transparent manner, including by ensuring their immediate return;

(g) To ensure the reunion of separated families across the border;

(h) To abolish immediately the practice of guilt-by-association punishment;

(i) To ensure that everyone within the territory of the Democratic People's Republic of Korea enjoys the right to liberty of movement and is free to leave the country, including for the purpose of seeking asylum outside the Democratic People's Republic of Korea, without interference by the authorities of the Democratic People's Republic of Korea;

(j) To provide nationals of other countries detained in the Democratic People's Republic of Korea with protections, including freedom of communication with and access to consular officers, in accordance with the Vienna Convention on Consular Relations, to which the Democratic People's Republic of Korea is a party, and any other necessary arrangements to confirm their status and to communicate with their families;

3. *Recalls* General Assembly resolution 72/188, in which the Assembly expressed its very serious concern at the violations of workers' rights, including the right to freedom of association and effective recognition of the right to collective bargaining, the right to strike and the prohibition of the economic exploitation of children and of any harmful or hazardous work of children, as well as the exploitation of workers sent abroad from the Democratic People's Republic of Korea to work under conditions that reportedly amount to forced labour;

4. *Also recalls* paragraph 11 of Security Council resolution 2371 (2017), paragraph 17 of Council resolution 2375 (2017) and, in particular, paragraph 8 of Council

resolution 2397 (2017), in which it decided that Member States should repatriate to the Democratic People's Republic of Korea all nationals of the Democratic People's Republic of Korea earning income in their jurisdictions and all Democratic People's Republic of Korea government safety oversight attachés monitoring Democratic People's Republic of Korea workers abroad immedi ely but no later than 24 months from 22 December 2017, unless the particular Member State determines that the national is a national of that Member State or is prohibited from repatriation under applicable national and international law, including international refugee law and international human rights law, the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations or the Convention on the Privileges and Immunities of the United Nations, and urges the Democratic People's Republic of Korea to promote, respect and protect the human rights of workers, including workers repatriated to the Democratic People's Republic of Korea;

5. *Recalls* paragraph 4 of General Assembly resolution 72/188, in which the Assembly underscored its very serious concern regarding reports of torture, summary executions, arbitrary detention, abductions and other forms of human rights violations and abuses that the Democratic People's Republic of Korea commits against citizens of other countries within and outside of its territory;

6. *Reiterates its deep concern* at the commission's findings concerning the situation of refugees and asylum seekers returned to the Democratic People's Republic of Korea, and other citizens of the Democratic People's Republic of Korea who have been repatriated from abroad and made subject to sanctions, including internment, torture, cruel, inhumane and degrading treatment, sexual violence, enforced disappearance or the death penalty, and in this regard strongly urges all States to respect the fundamental principle of non-refoulement, to treat humanely those who seek refuge and to ensure unhindered access to the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights with a view to protecting the human rights of those who seek refuge, and once again urges State parties to comply with their obligations under international human rights law and the Convention relating to the Status of Refugees and the Protocol thereto in relation to persons from the Democratic People's Republic of Korea who are covered by those instruments;

7. *Stresses and restates its grave concern* about the commission's finding that the body of testimony gathered and the information received provided reasonable grounds to believe that crimes against humanity have been committed in the Democratic People's Republic of Korea, pursuant to policies established at the highest level of the State for decades and by institutions under the effective control of its leadership; these crimes against humanity entail extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation;

8. *Stresses* that the authorities of the Democratic People's Republic of Korea have failed to prosecute those responsible for crimes against humanity and other human rights violations, and encourages all States, the United Nations system, including relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and other stakeholders to cooperate with accountability efforts, especially efforts taken by the Office of the United Nations High Commissioner for Human Rights, and to ensure that these crimes do not remain unpunished;

9. *Welcomes* General Assembly resolution 72/188, in which the Assembly encouraged the Security Council to continue its consideration of the relevant conclusions and recommendations of the commission of inquiry and take appropriate action to ensure accountability, including through consideration of referral of th situation in the Democratic People's Republic of Korea to the International Criminal Court and consideration of the further development of sanctions in order to target effectively those who appear to be most responsible for human rights violations that the commission has said may constitute crimes against humanity;

10. *Also welcomes* the decision of the Security Council to hold a fourth Council meeting on 11 December 2017, following the ones held in December 2014, December 2015 and December 2016, during which the situation of human rights in the Democratic People's Republic of Korea was discussed, in the light of the serious concerns expressed in the present resolution, and looks forward to the continued and more active engagement of the Council on this matter;

11. *Commends* the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea for the activities undertaken to date and his continued efforts in the conduct of his mandate despite the lack of access to the country;

12. *Welcomes* the report of the Special Rapporteur;[5]

13. *Recalls* the recommendations of the commission of inquiry and General Assembly resolution 70/172 of 17 December 2015 and reiterates the importance of maintaining the grave human rights situation in the Democratic People's Republic of Korea high on the international agenda, including through sustained communications, advocacy and outreach initiatives, and requests the Office of the High Commissioner to strengthen those activities;

14. *Welcomes* steps taken to strengthen the capacity of the Office of the High Commissioner, including its field-based structure in Seoul, to allow the implementation of relevant recommendations made by the group of independent experts on accountability in its report aimed at strengthening current monitoring and documentation efforts, establishing a central information and evidence repository, and having experts in legal accountability assess all information and testimonies with a view to developing possible strategies to be used in any future accountability process, and strongly encourages the Office of the High Commissioner to expedite the process for strengthening its capacity;

15. *Reiterates* the request made by the Human Rights Council in its resolution 34/24 that the United Nations High Commissioner for Human Rights submit to it at its fortieth session a full report on the implementation of the recommendations made by the group of independent experts on accountability in its report to the Council at its thirty-fourth session;[6]

16. *Decides* to extend the mandate of the Special Rapporteur, in accordance with Human Rights Council resolution 34/24, for a period of one year;

17. *Calls again upon* all parties concerned, including United Nations bodies, to consider implementation of the recommendations made by the commission of inquiry in its report in order to address the dire situation of human rights in the Democratic People's Republic of Korea;

18. *Encourages* the continuing endeavours of the field-based structure of the Office of the High Commissioner in Seoul, and welcomes its regular reports to the Council and invites the High Commissioner to provide the Council with regular updates on the situation of human rights in the Democratic People's Republic of Korea;

19. *Calls upon* all States to undertake to ensure that the field-based structure of the Office of the High Commissioner can function with independence, that it has sufficient resources to fulfil its mandate, that it enjoys full cooperation with relevant Member States and that it is not subjected to any reprisals or threats;

20. *Requests* the Office of the High Commissioner to report on its follow-up efforts in the regular annual report of the Secretary-General submitted to the General Assembly on the situation of human rights in the Democratic People's Republic of Korea;

21. *Requests* the Special Rapporteur to submit regular reports to the Human Rights Council and to the General Assembly on the implementation of his mandate,

[5] A/HRC/37/69.

[6] A/HRC/34/66 and Add.1.

including on the follow-up efforts made in the implementation of the recommendations of the commission of inquiry;

22. *Urges* the Government of the Democratic People's Republic of Korea, through continuous dialogues, to invite and to cooperate fully with all special procedure mandate holders, especially the Special Rapporteur, to give the Special Rapporteur and supporting staff unrestricted access to visit the country, and to provide them with all information necessary to enable them to fulfil such a mandate, and also to promote technical cooperation with the Office of the High Commissioner;

23. *Encourages* the United Nations system, including its specialized agencies, States, regional intergovernmental organizations, interested institutions, independent experts and non-governmental organizations to develop constructive dialogue and cooperation with special procedure mandate holders, including the Special Rapporteur, and the field-based structure of the Office of the High Commissioner;

24. *Encourages* all States, the United Nations Secretariat, including relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and engaged business enterprises and other stakeholders towards which the commission of inquiry has directed recommendations, to take forward those recommendations;

25. *Encourages* the United Nations system as a whole to continue to address the grave situation of human rights in the Democratic People's Republic of Korea in a coordinated and unified manner;

26. *Encourages* all States that have relations with the Democratic People's Republic of Korea to use their influence to encourage it to take immediate steps to end all human rights violations, including by closing political prison camps and undertaking profound institutional reforms;

27. *Requests* the Secretary-General to provide the Special Rapporteur and the Office of the High Commissioner with regard to the field-based structure with all the assistance and adequate staffing necessary to carry out the mandate effectively, and to ensure that the mandate holder receives the support of the Office of the High Commissioner;

28. *Decides* to transmit all reports of the Special Rapporteur to all relevant bodies of the United Nations and to the Secretary-General for appropriate action.